



Comptroller General  
of the United States

Washington, D.C. 20548

144093

## Decision

**Matter of:** East West Research, Inc.

**File:** B-242796

**Date:** June 5, 1991

Richard Snyder for the protester.  
Ronald M. Pettit, Esq., Defense Logistics Agency, for the agency.  
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Contracting agency's determination that protester's quote of an alternate item as technically unacceptable was reasonable where the protester failed to submit sufficient information to establish that its alternate item was equivalent to the specified product.

### DECISION

East West Research, Inc. protests the evaluation of its alternate product under request for quotations (RFQ) No. DLA700-90-Q-U286, issued by the Defense Logistics Agency, Defense Construction Supply Center (DCSC), for 39 cylinder regulators. East West contends that DCSC did not conduct a fair and unbiased evaluation of the offered alternate.

We deny the protest in part and dismiss it in part.

The RFQ was issued on April 24, 1990, for an Emerson Electric Company cylinder regulator, part No. 87-2500A-580,<sup>1/</sup> identified by National Stock Number (NSN) 4820-01-154-2108. The RFQ contained the standard "Products Offered" clause, which permitted offerors to propose alternate items. Under that clause, offerors proposing alternate items were required to furnish sufficient information in order for the contracting agency to determine the acceptability of the alternate item.

<sup>1/</sup> All parties agree that this part is manufactured by Harris Calorific Division of the Lincoln Electric Company.

On May 29, DCSC received quotes from four offerors, including an offer from East West for an alternate item. East West proposed a cylinder regulator manufactured by Veriflo Corporation, part No. 5802-580. East West submitted no data with its quote stating that "catalog data [was] previously submitted."<sup>2/</sup> On September 11, DCSC determined that East West's lower priced alternate item was technically unacceptable because the item was not equipped with an anti-vibration mechanism, a critical feature of the Emerson regulator.<sup>3/</sup> On November 6, DCSC issued a purchase order at a higher unit price to Lin Fasteners, Inc., for the Emerson regulator. On November 17, East West filed an agency-level protest against the award of the purchase order claiming that the evaluation of its alternate item was improper. On January 24, 1991, DCSC denied the protest. This protest followed on January 30.

East West alleges that all manufacturers of high flow regulators equip their regulators with an anti-vibration mechanism in order to protect the equipment, but do not include the feature in technical literature because it is not a unique feature.

An offeror has the responsibility to submit sufficient information with its alternate item to determine its acceptability. See East West Research, Inc., E-239619, Aug. 28, 1990, 90-2 CPD ¶ 168. Since the contracting agency generally has the responsibility to determine whether such information is sufficient to determine the acceptability of the offeror's alternate item, we will not disturb the agency's technical determination unless it is shown to be unreasonable. Id.

In this case, East West submitted no literature with its quote. Nevertheless, DCSC reviewed the Veriflo and Harris catalogs in its technical library. DCSC determined that the Veriflo technical information did not describe the regulator to be equipped with an anti-vibration device, while the Harris catalog specifically indicated this was standard equipment on the Emerson part. The anti-vibration device was considered a critical component, given the high pressure operation of the valve.

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<sup>2/</sup> East West has not supplied a copy of the data, which it claims it previously submitted.

<sup>3/</sup> A cylinder regulator is a device that controls the delivery of pressure from cylinders containing various gases. The anti-vibration device prevents harmonics, i.e., vibration, that may damage the diaphragm of the regulator while in operation.

After award and in response to East West's protest, DCSC contacted both Veriflo and Harris in January 1991 to determine whether their regulators contained an anti-vibration device. Harris confirmed that its regulator contains an anti-vibration mechanism, but that such a mechanism is not in all of its regulators. DCSC reports that Veriflo advised that its regulator contains a "spring shield mechanism," instead of the anti-vibration device. This mechanism reportedly is designed to control vibration and harmonics during operation of the regulator. Veriflo indicated that its technical literature does not specifically address anti-vibration as an added feature of its regulators. DCSC reports that at present it still lacks sufficient information from the protester or otherwise to determine whether the Veriflo spring shield mechanism is functionally equivalent to the anti-vibration device in the Harris regulator.


DCSC reasonably relied upon the Veriflo and Harris catalogs to reject the Veriflo part since East West did not satisfy its obligation to furnish sufficient literature to document the acceptability of its part. See Commodore Mfg., Inc.; BWC Technologies, Inc., B-239345, B-239345.2, July 25, 1990, 90-2 CPD ¶ 77. While it seems logical that any acceptable valve operating at the high pressures required here needs to address the vibration problem, the fact is that Veriflo's literature did not address this matter.

East West argues that DCSC's evaluation of its alternate item was unreasonable because DCSC did not contact the manufacturers until after January, which was subsequent to the issuance of the purchase order. Thus, East West questions whether DCSC actually conducted an evaluation of its alternate in September. DCSC, however, was under no obligation to contact the manufacturers as part of its evaluation of East West's part, particularly since East West did not furnish, with its quote, literature to show its offered part was acceptable. See East West Research, Inc., B-239619, supra. In any case, there is no evidence in the record that suggests that DCSC did not review the catalogs as it said it did in September 1990. Under the circumstances, we find that the agency's rejection of East West's quote was reasonable. See East West Research, Inc., B-239619, supra.

East West also protests that under RFQ No. DLA700-91-T-9460, which was issued by DCSC on December 20, 1990, for 88 Emerson cylinder regulators, DCSC may not accept the Veriflo part as an acceptable item. However, DCSC reports that East West can submit additional data in support of its alternate item, including data to establish that its regulator has

anti-vibration protection equivalent to the Harris anti-vibration device. Since no purchase order has been issued under this RFQ, we consider this protest to be premature and dismiss it.

The protest is denied in part and dismissed in part.

  
James F. Hinchman  
General Counsel